

REMARKS

INTRODUCTION

In accordance with the foregoing, claims 1, 7, and 22 have been amended. Claim 25 has been added. Claims 1-4, 7-19, 22, 23, and 24-25 are pending and under consideration.

ELECTION/RESTRICTIONS

On page 2, the Examiner has withdrawn claim 24 from consideration for being directed to a non-elected invention.

DRAWINGS

The Applicant submitted on August 4, 2006 a set of Drawings including replacement and annotated drawing sheets, which were acknowledged in the date-stamped postcard, but not in the recent final Office Action. Acknowledgement of the drawings submitted on August 4, 2006 is requested.

ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:

The Applicant requests entry of this Rule 116 Response because:

the amendments to claim 1, 7, and 22 were not earlier presented because the Applicant believed in good faith that the cited prior art did not disclose the present invention as previously claimed.

The Manual of Patent Examining Procedure sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedure further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REJECTIONS UNDER 35 U.S.C. § 103

On pages 2 and 3, claims 1-4, 7-19, 22, and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hedenberg in view of Miller.

On page 4, the Office Action states, "Applicant's claims are considered apparatus claims and therefore do not require consideration for the method of forming."

MPEP 2173.05 (p) states:

A product-by-process claim, which is a product claim that defines the claimed product in terms of the process by which it is made, is proper. *In re Luck*, 476 F.2d 650, 177 USPQ 523 (CCPA 1973); *In re Pilkington*, 411 F.2d 1345, 162 USPQ 145 (CCPA 1969); *In re Steppan*, 394 F.2d 1013, 156 USPQ 143 (CCPA 1967). A claim to a device, apparatus, manufacture, or composition of matter may contain a reference to the process in which it is intended to be used without being objectionable under 35 U.S.C. 112, second paragraph, so long as it is clear that the claim is directed to the product and not the process (*emphasis added*).

Contrary to the Office Action's assertion, an Applicant may present claims of varying scope even if it is necessary to describe the claimed product in product-by-process terms (*Ex parte Pantzer*, 176 USPQ 141, Bd. App. 1972).

In the present application, the limitations of "press-formed" and "press-forming" indicate that the breakaway-prevention protrusions are an integral part of the structure of the profile groove. The resulting structure after "press-forming" are breakaway-prevention protrusions that are incorporated with the respective stationary and rotatable trays by molding.

Therefore, the limitations of "press-formed" found in independent claims 1 and 7 and "press-forming" found in independent claim 22 impart distinctive structural characteristics to the final product.

The Office Action acknowledged that Hedenberg does not teach or suggest a profile groove with protrusions. On page 3 of the Office Action, the Office Action asserts that Miller makes up for the deficiencies of Hedenberg.

The Office action asserts that Miller describes a groove 14 including flanges 19 for retaining the gasket within the groove.

Miller does not teach or suggest, "the plurality of profiles fit inside the profile groove" as recited in amended, independent claim 7, for example.

Miller states in col. 2, lines 13-15:

Also, the diameter of gasket 20 exceeds the depth of groove 14, causing the gasket to protrude from the open underside of this groove to support the cover plate on deck ring flange 13 as shown.

Miller shows in Fig. 4 the gasket 20 and groove 14 exceeding the clearance space between the flanges 19 (col. 2, lines 7-11).

Thus, Miller does not teach or suggest, "the plurality of profiles fit inside the profile

groove" as recited in amended, independent claim 7, for example.

In view of the above, it is respectfully submitted that the rejection is overcome.

NEW CLAIM

New claim 25 recites "the profile grooves having a plurality of breakaway-prevention protrusions extending from edges thereof." Nothing in the cited references teach or suggest such. It is submitted that this new claim, which are different and not narrower than prior filed claims distinguishes over the cited references.

CONCLUSION

In accordance with the foregoing, Applicant respectfully submits that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the cited art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, the Board should enter this Amendment at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration.

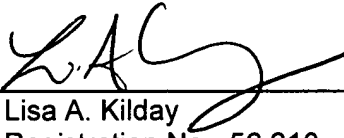
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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